

If Congress was designing the Medicare Program today, in 2003, instead of in 1965, there is little doubt that outpatient prescription drug coverage would be a central part of that program. That is a lot of the argument we made when we passed the prescription drug benefit, a bill that passed earlier in the summer.

The current Medicare system, however, only provides limited coverage for outpatient drugs. Clearly, that needs to change, especially for cancer care.

Medicare does provide coverage for many cancer drugs, such as chemotherapeutic agents and supportive drugs. In addition, Medicare provides reimbursement to physician practices for professional services associated with the administration of those covered drugs under Medicare. As has been noted by the General Accounting Office and the HHS inspector general, the current system for reimbursement of cancer care is seriously flawed.

Medicare payments for cancer drugs frequently exceed the cost to the providers, and at the same time, however, Medicare reimbursement for drug administration covers only a small fraction of the actual cost of providing quality cancer care.

It is estimated that the current Medicare reimbursement only covers about 20 percent of the actual practice expenses.

I have heard from many of Florida's 775 oncologists, and they have told me that the overpayment for covered drugs has helped make up for the significant underpayment in practice expenses incurred by physicians' offices. This includes expenses for oncology nurses, pharmacists, case managers, medical equipment, and other services and supplies involved in providing cancer patients with the highest quality of care.

The goal for reform ought to be simple. Medicare should neither overpay nor underpay for drugs and related expenses. Unfortunately, the legislation passed by both Houses does not achieve the balanced reform that I think all of us agree is needed.

Instead, the legislation passed by the Senate on prescription drugs calls for a cut of \$16 billion over the next 10 years. The House-passed bill is no better, and it includes a cut of over \$13 billion from the current Medicare reimbursement levels.

The consequences from cuts of this magnitude are going to be dramatic, including the closure of satellite clinics in rural areas, forcing cancer patients to drive hundreds of miles for treatments. Oncology nurses, pharmacists, social workers, and the like will lose their jobs. Clinical research in community-based clinics, where approximately 60 percent of all cancer clinical trials are conducted today, are going to be brought to a halt. Many doctors will be forced to significantly reduce the number of Medicare cancer patients they treat, while others will

stop accepting new cancer patients altogether.

Patients are going to be forced to seek treatment elsewhere, but hospitals have indicated they have neither the physical capacity nor the nursing staff to treat a large volume of new cancer patients. In fact, a recent survey conducted by the American Society of Clinical Oncology found that if the proposed cuts in Medicare reimbursement are enacted into law, 73 percent of physicians surveyed would send chemotherapy patients to a hospital instead of treating them in the office. Fifty-three percent would limit the number of Medicare patients they treat, and nearly one in five indicated they would stop treating Medicare patients entirely.

If that happens, it is exactly the opposite of what we ought to be doing, because a person can keep their costs a lot lower if they are doing this treatment in a doctor's office instead of doing it in the hospital.

I am sure all of us unanimously would agree that we cannot let this happen, especially at a time when such tremendous progress is being made in cancer research and treatment. Yet it is happening under our eyes. It happened in this bill that we passed.

According to the statistics from the American Cancer Society, approximately 1.3 million new cancer cases will be diagnosed this year, and 60 percent of those cases will be among Medicare beneficiaries.

In my home State, more than a million people will be told over the next decade that they have been diagnosed with cancer. If the \$16 billion of cuts in cancer care that have been proposed are enacted into law, this would mean a \$1.6 billion reduction in Medicare cancer care reimbursement in my State of Florida alone. This cut is second only to the cut in California, which would be hit with a \$1.7 billion cut.

Let's face it, cuts of this magnitude are not sustainable. This is just Medicare reimbursement that we are talking about because private payers frequently follow the Medicare payment formulas. In the private sector, those cuts will be even more dramatic. The cumulative effect of all of these proposed Medicare cuts, combined with the private payer cuts that will undoubtedly follow, will have a very serious impact on the ability of cancer patients to receive the care they need in order to survive.

I remind everybody that there is not one among us who has not been touched by cancer in some way, if not among ourselves, among our loved ones and our friends. We have the greatest system of cancer care in the world. Patients are living longer. They are living productive lives thanks to the scientific advances and the dedicated men and women who provide the high-quality care in convenient and cost-effective community clinics throughout this country. People from around the world travel to America for cancer care.

My colleagues ought to see the Latin American market, how it comes to Florida for that care, because they know we have the latest technologies, the best doctors, the most compassionate nurses, and the best trained medical workforce in the world. That is why people come to the United States for their health care, especially cancer care.

Advances in cancer research have led to the development of new therapies that are more targeted, and those therapies are less toxic. As a result, cancer mortality rates in the U.S. have been declining. We are winning this war on cancer. Now is not the time to call for a retreat, a surrender, by slashing Medicare payments.

The conference committee on the Medicare prescription drug bill is meeting right now, and all across this land people who care about what I am trying to articulate ought to be sending their ideas, their requests, and their pleas, along with their prayers, to that conference committee and let them know what they think. We have a saying in the South: Let them have an earful.

While many issues still have to be ironed out in that conference committee, it is putting the Congress one step closer to enacting the most sweeping reform of the Medicare Program since its inception.

In closing, I urge my colleagues to continue the discussions with the cancer care community to develop a proposal that will preserve patient access to community-based cancer care. Cancer patients and their families are counting on Congress to preserve high-quality community-based cancer care. This is one of the most serious issues we are facing, and when we make tradeoffs because of budgetary limitations, as we did on the floor of this Senate in the consideration of the Medicare prescription drug benefit, where we traded cuts in cancer care for increases in rural health care, that is a tradeoff that we should not have to make. We ought to be able to do both. The consequences, if we allow it to stand, are going to be extremely great. I yield the floor.

#### CANCER

Mr. STEVENS. Mr. President, increasing scientific evidence indicates that what a person includes in his or her diet may be as important as what a person excludes. Scientists estimate that at least 30 to 40 percent of all cancers are linked to diet and related lifestyle factors.

Some foods contain substances known to increase the risk of cancer, including saturated fat, cholesterol, and oxidants.

Avoiding these foods may reduce the risk of many of the most common forms of cancer, including prostate cancer, breast cancer, and colon cancer. I happen to have an extreme interest in that because I am a prostate cancer survivor. I am now told other foods

contain substances that help protect against cancer and heart disease.

A growing number of compounds in fruits, vegetables, and cereal grains have been found to interfere with the process of cancer development in laboratory research.

Epidemiologists have found that populations that consume large amounts of plant-derived foods have lower incidence rates of some types of cancer.

According to a study conducted by Stephanie London, a doctor and epidemiologist at the National Institutes of Environmental Health Sciences and Research Triangle Park, North Carolina, broccoli and other members of the cruciferous vegetable family, including cabbage and bok choy, appear to protect humans from lung cancer.

Several other studies have pointed to the cancer-prevention properties of phytochemicals found in these vegetables. According to Hien T. Le, Ph.D., a molecular biologist with the University of California Berkeley, consumption of these cruciferous vegetables has been linked with prevention of cancers of the breast, endometrium, colon, and prostate cancer.

One study further found these chemicals are "novel," naturally occurring and could have potential in cancer prevention or treatment.

Broccoli and related vegetables contain the chemical that kills the bacteria responsible for most stomach cancers, say researchers, confirming the dietary advice that moms have been handing out for years. Dr. Paul Talalay, a coresearcher at Johns Hopkins University, found the chemical sulforaphane even killed *H. pylori*, a bacteria that causes stomach ulcers and often fatal stomach cancers. Researchers stated:

If clinical studies show that a food can relieve or prevent disease associated with this bacterium in people, it could have a significant public health implication in the United States and around the world.

The good news is there appears to be enough of this chemical in broccoli sprouts and some varieties of broccoli to significantly benefit people who eat them. However, researchers cannot now say how much broccoli one should eat for there to be such an impact. The actual amounts would need to be determined with long-term tests involving human trials. "The levels at which we test it . . . is such that those could be achieved by eating broccoli or broccoli sprouts. It's a reasonable level that we think would be reached in the stomach," said Jed W. Fahey, of the Johns Hopkins University School of Medicine.

Researchers have created a synthetic version of the compound found in broccoli and other vegetables. "It may be easier to take a cancer prevention pill once a day rather than rely on massive quantities of fruits and vegetables," says the study author, Jerome Kosmeder, another Ph.D. research assistant professor at the University of Illinois at Chicago. However, such drug

development is several years away, I am informed.

The reason for my statement today is that I recently met with Dean Ornish, a great friend, a medical doctor, founder and president of the Preventive Medicine Research Institute, and clinical professor of medicine at the University of California, San Francisco. According to Dr. Ornish, "We often have had a hard time believing that the simple choices we make in our life each day—what we eat, how we respond to stress, how much exercise we get, whether or not we smoke, and the quality of our relationships—have such a powerful impact on our health and well-being."

With Dr. Ornish was Dr. S. Ward Casscells, a medical doctor who is the John Edward Tyson Distinguished Professor of Medicine and Public Health and vice president for biotechnology at the University of Texas Health Center in Houston.

Dr. Casscells was diagnosed with very aggressive metastatic prostate cancer in July of 2001. He began utilizing diet and a lifestyle program that Dr. Ornish and his colleagues had developed, along with conventional drug treatment. Today, Dr. Casscells shows no sign of cancer. He shows no sign at all of a cancer that had metastasized.

Meanwhile, researchers say populations should continue to eat healthy amounts of fruits and vegetables, enabling them to take advantage of cancer-fighting properties. Several other studies have pointed to the cancer prevention properties of the phytochemicals found in vegetables, according to several other people.

Mr. President, I emphasize, because of the nature of some of the moneys in this bill—I do believe we have spent a lot of Federal-tax payers' money on various approaches to cancer—I think we should concentrate more of the money we have available on these methods of prevention and methods of retarding the development of cancer once discovered.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment. Is there a request for the yeas and nays?

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), Senator from Florida (Mr. GRAHAM), Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 7, nays 87, as follows:

[Rollcall Vote No. 344 Leg.]

#### YEAS—7

Bunning	Ensign	Santorum
Coleman	Gregg	
Collins	Murkowski	

#### NAYS—87

Akaka	Dodd	Lott
Alexander	Dole	Lugar
Allen	Domenici	McCain
Baucus	Dorgan	McConnell
Bayh	Durbin	Mikulski
Bennett	Enzi	Miller
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Bond	Fitzgerald	Nelson (NE)
Boxer	Frist	Nickles
Breaux	Graham (SC)	Pryor
Brownback	Grassley	Reed
Burns	Hagel	Reid
Byrd	Harkin	Roberts
Campbell	Hatch	Rockefeller
Cantwell	Hollings	Sarbanes
Carper	Hutchison	Schumer
Chafee	Inhofe	Sessions
Chambliss	Inouye	Shelby
Clinton	Jeffords	Snowe
Cochran	Johnson	Specter
Conrad	Kennedy	Stabenow
Cornyn	Kohl	Stevens
Corzine	Kyl	Sununu
Craig	Landrieu	Talent
Crapo	Lautenberg	Thomas
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lincoln	Wyden

#### NOT VOTING—6

Allard	Graham (FL)	Lieberman
Edwards	Kerry	Smith

The amendment (No. 1585) was rejected.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I alert all Senators as to our schedule. I have had a number of inquiries as to what we will be doing. There are very few amendments remaining to be voted upon. Unless we are going to have a series of rollcall votes on amendments which the managers have agreed to, the senior Senator from Arizona has notified this manager there are objections to amendments.

At this time I ask unanimous consent to offer an amendment by Senator SESSIONS regarding the Centers for Disease Control on a plan related to blood safety and ask for its immediate adoption. The provision of the amendment is "not later than 90 days after the date of enactment of this act, the director of the Centers for Disease Control and Prevention shall prepare a plan to comprehensively address blood safety and injection safety in Africa under the global AIDS program."

The area of disagreement, if I may inform my colleagues, is whether the word "shall" will be in the amendment, which is what Senator SESSIONS insists upon, or whether it will be "may," which would leave it up to the discretion of the executive branch as to whether they will carry out the study.

If the yeas and nays are requested, I intend to ask my colleagues to deny a sufficient second. I have consulted with the Parliamentarian who advises that the rule is, to have a sufficient second, there must be one-fifth of those who

previously voted, which would be 19 out of 95. If this will require a rollcall vote, I cannot predict how many rollcall votes we will have this evening, but I would not make dinner plans.

Mr. INHOFE. Regular order.

Mr. SPECTER. Mr. President, I ask unanimous consent for the adoption of the Sessions amendment.

The PRESIDING OFFICER. Is there objection?

Mr. McCAIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. McCAIN. I suggest the absence of a quorum.

Mr. INHOFE. Regular order.

Mr. HARKIN. Regular order.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HARKIN addressed the Chair.

Mr. BREAUX. Regular order.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

#### AMENDMENT NO. 1614

Mr. HARKIN. Regular order, Mr. President.

Mr. McCAIN. Is the amendment debateable?

The PRESIDING OFFICER. The regular order is there are 2 minutes evenly divided prior to a vote with respect to the Landrieu amendment No. 1614.

Who yields time?

The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I am glad to have a quorum. This is a very important amendment. I need my colleagues' help, if they would direct their attention to this chart I have in the Chamber.

This amendment is called the MASH amendment. It is a very serious amendment: mosquito abatement, safety, and health.

We are fighting multiple wars—one in Iraq, which is very serious, with far-reaching consequences.

I know my colleagues are interested in knowing about how many people have lost their lives in their own States in this last year. It has been quite a few from this new and very deadly disease.

We have lost 286 men and women in Iraq, which is very serious, and we are spending a great deal of time, energy, money, and treasure, but we have also lost 246 individuals in the United States. The highest instances have been in Louisiana, South Dakota, Michigan, and Ohio.

This amendment will provide the only Federal funds available to help our States combat this deadly disease. I ask for your support. I ask unanimous consent to have printed in the RECORD data on the number of confirmed cases of people who have contracted this

deadly disease and the number of people who have died from it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### WEST NILE VIRUS CURRENT CASE COUNT

(Data currently listed shows case counts for 2002 only)

State	Laboratory-positive human cases	Deaths
Alabama .....	49	3
Arkansas .....	43	3
California .....	1	
Colorado .....	14	
Connecticut .....	17	
Delaware .....	1	
District of Columbia .....	34	1
Florida .....	28	2
Georgia .....	44	7
Illinois .....	884	64
Indiana .....	293	11
Iowa .....	54	2
Kansas .....	22	
Kentucky .....	75	5
Louisiana .....	329	25
Maryland .....	36	7
Massachusetts .....	23	3
Michigan .....	614	51
Minnesota .....	48	
Mississippi .....	192	12
Missouri .....	168	7
Montana .....	2	
Nebraska .....	152	7
New Jersey .....	24	
New York .....	82	5
North Carolina .....	2	
North Dakota .....	17	2
Ohio .....	441	31
Oklahoma .....	21	2
Pennsylvania .....	62	7
Rhode Island .....	1	
South Carolina .....	1	
South Dakota .....	37	
Tennessee .....	56	7
Texas .....	202	13
Vermont .....	1	
Virginia .....	29	2
West Virginia .....	3	2
Wisconsin .....	52	3
Wyoming .....	2	
Totals .....	4,156	284

<sup>1</sup> Data currently listed shows case counts for 2002 only. As of April 15, 2003 these are the human case totals that have been reported to ArboNet. ArboNet is the national, electronic surveillance system established by CDC to assist states in tracking West Nile and other mosquito-borne viruses.

#### WEST NILE VIRUS 2003 HUMAN CASES AS OF SEPTEMBER 9, 2003

State	Human cases <sup>1</sup> reported to CDC	Deaths
Alabama .....	20	2
Arizona .....	1	
Arkansas .....	5	
Colorado .....	973	13
Connecticut .....	1	
Florida .....	22	
Georgia .....	7	1
Illinois .....	5	
Indiana .....	6	
Iowa .....	20	2
Kansas .....	18	1
Kentucky .....	4	
Louisiana .....	42	
Maryland .....	8	
Massachusetts .....	1	
Minnesota .....	30	
Mississippi .....	43	1
Missouri .....	6	1
Montana .....	116	1
Nebraska .....	436	10
New Jersey .....	3	
New Mexico .....	83	4
New York .....	6	1
North Carolina .....	9	
North Dakota .....	91	
Ohio .....	18	1
Oklahoma .....	20	
Pennsylvania .....	38	
South Carolina .....	1	
South Dakota .....	407	5
Tennessee .....	6	
Texas .....	190	6
Virginia .....	4	
Wisconsin .....	5	
Wyoming .....	229	4
Total .....	2,874	53

<sup>1</sup> These numbers reflect both mild and severe human disease cases that have been reported to ArboNet by state and local health departments during 2003. ArboNet is the national, electronic surveillance system established by CDC to assist states in tracking West Nile virus and other mosquito-borne viruses.

Note: As of the above date, detailed information is available for 2,752 cases: 1,595 cases (58%) were reported as West Nile Fever (milder disease), 843 (31%) were reported as West Nile meningitis or encephalitis (severe disease) and 314 (11%) were clinically unspecified.

Ms. LANDRIEU. I ask for my colleagues' support on this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time in opposition?

Mr. SPECTER. Mr. President, there is no doubt about the seriousness of the West Nile virus. But we have, at the present time, some \$76 million at the Centers for Disease Control.

This past Saturday, I visited the Centers for Disease Control. I took a look at their maps and saw the incidence of West Nile and have no request from the Centers for Disease Control that there ought to be any additional funding.

Mr. President, I raise a point of order under section 504 of the concurrent resolution on the budget for fiscal year 2004 that the amendment is not in order because it exceeds discretionary spending limits.

Ms. LANDRIEU. Mr. President, pursuant to section 504(b)(2) of H. Con. Res. 95, I move to waive section 504 of that concurrent resolution for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Oregon (Mr. SMITH) is absent because of a death in the family.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 46, nays 49, as follows:

[Rollcall Vote No. 345 Leg.]

#### YEAS—46

Akaka	Dayton	Levin
Allard	Dodd	Lincoln
Baucus	Dorgan	Mikulski
Bayh	Durbin	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Boxer	Harkin	Pryor
Breaux	Hollings	Reed
Byrd	Inouye	Reid
Campbell	Jeffords	Rockefeller
Cantwell	Johnson	Sarbanes
Clinton	Kennedy	Schumer
Coleman	Kohl	Stabenow
Conrad	Landrieu	Wyden
Corzine	Lautenberg	
Daschle	Leahy	

#### NAYS—49

Alexander	Bennett	Brownback
Allen	Bond	Bunning

Burns	Frist	Nickles
Carper	Graham (SC)	Roberts
Chafee	Grassley	Santorum
Chambliss	Gregg	Sessions
Cochran	Hagel	Shelby
Collins	Hatch	Snowe
Cornyn	Hutchison	Specter
Craig	Inhofe	Stevens
Crapo	Kyl	Sununu
DeWine	Lott	Talent
Dole	Lugar	Thomas
Domenici	McCain	Voinovich
Ensign	McConnell	Warner
Enzi	Miller	
Fitzgerald	Murkowski	

## NOT VOTING—5

Edwards	Kerry	Smith
Graham (FL)	Lieberman	

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I believe we are ready to go to the amendment of the Senator from Nevada, Mr. ENSIGN. He was in the Chamber a moment ago. Let me advise all Senators that it appears at this time that we will have four more rollcall votes, plus final passage.

The leader has authorized me to say that the 15-minute votes will be held sharp to 20 minutes, 15 and 5 grace, cut off after 20 minutes. The 10-minute votes will be 10 plus 5 minutes grace for a total of 15 minutes. We will try to proceed to conclude this bill. It is too late to complete it early, but we will do it as soon as we can.

Is the Senator from Nevada prepared to offer his amendment.

Mr. ENSIGN. Very soon.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AMENDMENT NO. 1621 TO AMENDMENT NO. 1542

Mr. ENSIGN. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself, Mrs. MURRAY, and Mr. GREGG, proposes an amendment numbered 1621 to amendment No. 1542.

Mr. ENSIGN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide funding for statewide, longitudinal data systems under section 208 of the Education Sciences Reform Act of 2002)

At the end of title III, insert the following:

SEC. 306. There are appropriated, out of any money in the Treasury not otherwise appropriated, to carry out section 208 of the Education Sciences Reform Act of 2002, \$80,000,000. All amounts in this Act for management and administration at the Department of Education are reduced on a pro rata basis by an amount required to offset the \$80,000,000 appropriation made by this section.

Mr. ENSIGN. Mr. President, I will take a very short time on this amendment. I am proposing this amendment for myself, Senator MURRAY, and Senator GREGG. This amendment is to address a problem we hear about back home on the No Child Left Behind Act. When you go home and talk to educators, they talk about not having adequate money to get the technology to transfer the data to comply with the No Child Left Behind Act for the local school districts. It is the No. 1 complaint we have heard from all of the school districts back home.

This amendment appropriates \$80 million to basically fund that shortfall, and it takes the money out of administrative costs in the Department of Education. We think it is a very reasonable amendment. We hope our colleagues will support the amendment. Hearing from educators across the country, this will address one of the most pressing concerns they have in complying with the No Child Left Behind Act.

I just spoke to the new teachers in Clark County. They had to break it down into 2 days, with 700 one day and 700 the next for new teacher orientation. During that time, there were a lot of administrators around, and this was by far the biggest question they had—making sure they had adequate funds to comply with the No Child Left Behind Act. We think this amendment goes a long way toward complying with the No Child Left Behind Act.

I will yield to my friend from New Hampshire to make some remarks.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I rise in support of this amendment. It is paid for, which is a critical element of any amendment. More important than that, it does fund the data-tracking capabilities of the States. That is part of the No Child Left Behind initiative.

Last year, we passed the legislation, basically creating this opportunity for States to set up these databases. Unfortunately, we never funded it. So this would allow us to fund that new piece of legislation. I think it was a separate freestanding piece of legislation.

In any event, it funds the effort of the States to set up the data tracking within the States that is necessary for them to determine how they are doing in obtaining their achievement goals under No Child Left Behind. It is reasonable that this money be appropriated, and I am hopeful that it will be accepted. If it cannot be accepted, I hope we can do it by the offsets presented in this amendment.

Mr. ENSIGN. Mr. President, if no one else seeks recognition, I just add a cou-

ple of comments about the amendment. It has the support of the Council of Chief State School Officers. The reason, as I mentioned before, is because no matter how small or large the school district is, they are all facing the same problems this amendment attempts to correct.

They just do not have the infrastructure that is necessary to capture, analyze, and disseminate the data required by the No Child Left Behind Act.

Several States have not even done the planning to implement this because they don't have the resources. This amendment is going to give those resources necessary to comply with the No Child Left Behind Act.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this amendment provides \$80 million for data collection for student achievement. While it would be desirable to have more funds in this appropriations bill, we don't have them, and the offset is a cut in the program out of the Department of Education which would be very burdensome, really intolerable for the Department of Education.

For that reason, I reluctantly oppose the amendment by the Senator from Nevada.

The PRESIDING OFFICER. Is there further debate?

Mr. ENSIGN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, the Senator from Washington, Mrs. MURRAY, wishes to speak on the amendment, so I ask that the vote not occur at this time. She is on her way over to the Chamber.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that the pending amendment be set aside until Senator MURRAY arrives.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AMENDMENT NO. 1622 TO AMENDMENT NO. 1542

Mr. SPECTER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself, Mr. HARKIN, Mrs. FEINSTEIN, and Ms. COLLINS, proposes an amendment numbered 1622 to amendment No. 1542.

The amendment is as follows:

(Purpose: To increase funding for the National Institutes of Health)

On page 61, between lines 14 and 15, insert the following:

SEC. \_\_\_\_\_. In addition to any amounts otherwise appropriated under this Act under the heading of NATIONAL INSTITUTES OF HEALTH—OFFICE OF THE DIRECTOR, there are appropriated an additional \$1,500,000,000 for programs and activities under the discretion of the Office of the Director of the National Institutes of Health. Such additional amount shall be designated as emergency spending

pursuant to section 502(c) of House Concurrent Resolution 95 (108th Congress).

Mr. SPECTER. Mr. President, the amendment provides for an additional \$1.5 billion for the National Institutes of Health. This is one of the most important functions of the Federal Government. I don't think we have anything in our budget on the domestic side which is more important, perhaps not as important, as funding for the National Institutes of Health. That is the crown jewel of the Federal Government.

We are asking that this be classified as an emergency because the budget resolution provides for an emergency classification if it meets the following criteria: No. 1, vital; No. 2, urgent and compelling; No. 3, unpredictable; and No. 4, temporary.

It is vital because the lives and health of Americans are at stake. It is a life-and-death matter in the way NIH funding has saved lives, moving forward the cures of so many dreadful maladies.

It is urgent and compelling because Americans who have family members with muscular dystrophy, Parkinson's, Alzheimer's, or a host of other ailments will tell you that with each passing day, the hope that their loved one will be saved grows dimmer.

It is unpredictable and unanticipated because the nature of the scientific enterprise is unpredictable. The potential cures for disease have grown through research at NIH.

It is temporary because a disease such as cancer or Alzheimer's costs our economy billions of dollars a year.

As the diseases that afflict Americans are cured, they are able to return to productive lives, and these investments in the health of Americans will more than pay for themselves.

I offer this amendment on behalf of Senator HARKIN, Senator FEINSTEIN, Senator COLLINS, and myself. I know there are objections to the classification as an emergency. So I invite whoever seeks to object to come to the floor.

Mr. HARKIN. Does the Senator yield the floor?

Mr. SPECTER. I do.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, again I commend Senator SPECTER for his many years of hard work, his efforts, and his success in increasing the funding for the crown jewel of the Federal Government, and that is the National Institutes of Health. Certainly, no one has fought harder and longer to ensure that our National Institutes of Health get the funding they need for the cutting-edge research that is saving so many lives.

It was under Senator SPECTER's leadership that we embarked upon a program to double the NIH funding over 5 years. People said it could not be done, but we did it.

Now we are up there and there seems to be some idea that somehow since we

did that—the reason we did that was that NIH had fallen so far behind in the number of peer-reviewed grants that were being approved and funded. So we got them back up to where they were at least 20 years ago. Some think now we have them up there, we do not have to fund them anymore and we can start falling back again. The purpose of the Specter amendment is to bring the NIH up and keep them on a track that will not allow them to fall back again.

The Senate bill will increase funding for NIH by \$1 billion; that is 3.7 percent. It will be the smallest percentage increase for NIH since 1995. This is the wrong time to put the squeeze on NIH funding. Doing so will severely impact NIH's ability to award new research grants at the very time when scientists should be taking full advantage of everything they have learned over the past 5 years to translate that research into treatments and cures.

Under the Senate bill, the number of new and competing nonbiodefense research grants would actually drop from 9,902 in fiscal year 2003 to 9,827 in fiscal year 2004. That is why Senator SPECTER, Senator FEINSTEIN, Senator COLLINS, and I are offering an amendment to add \$1.5 billion more for NIH.

This additional funding is critical to ensuring that researchers can continue the remarkable pace of medical advances during the past 5 years, as I said, when we doubled the funding for NIH. Perhaps most importantly, the doubling of the funding helped result in the completion of the final DNA sequence of the human genome. That was done during that period of time.

In the past 5 years, NIH research has led directly to new knowledge about the dangers of hormone replacement therapy for millions of American women, contradicting commonly accepted medical practice.

NIH research supported the development of new techniques for bone marrow transplantation.

NIH research demonstrated that intense therapy of type 1 diabetes can reduce long-term diabetes complications by at least 75 percent.

NIH research has now enabled scientists to identify several genes that increase vulnerability to schizophrenia.

I guess what I am saying is we are truly on the brink of a golden age in medical research with the mapping and sequencing of the human genes and other measures funded by NIH. But those opportunities are threatened if we don't maintain NIH funding at a reasonable level.

The impact of the bill's dramatic slowing in the growth of the NIH budget will be particularly devastating in the areas of clinical research where, again, the fruits of our investment in medical research are applied to improving the health of the American people.

A crash landing in NIH funding sends a chilling message to young scientists in training and those just entering the

research field. Scientific competition will always be fierce, but young scientists must be sure that sufficient funding will be available or exceptionally talented young people will begin to pursue other careers.

So again I rise in strong support of Senator SPECTER's amendment, along with Senator FEINSTEIN, and I hope the Senate will adopt this very modest but very meaningful increase in funding for the National Institutes of Health.

Ms. MIKULSKI. Mr. President, I rise as a cosponsor of the Specter-Harkin-Feinstein amendment to increase funding for the National Institutes of Health, NIH. I fought hard to make sure that Congress kept the commitment it made 5 years ago to double Federal spending for the NIH. I am proud that Congress kept its promise. I strongly support the NIH. I believe that it is an investment that saves lives and that Congress must continue this valuable investment.

The underlying Senate bill that funds health programs would increase funding for NIH by \$1 billion, or just 3.7 percent in 2004. This would be the smallest percentage increase for NIH since 1995. The Specter-Harkins-Feinstein amendment would increase funding by \$1.5 billion, for a total of \$29.5 billion, this is the wrong time to cut the Federal investment in NIH. Congress and the American people have invested in the NIH. We must allow scientists to continue the great work they are doing and translate the research they have been working on over the past 5 years into treatments and cures.

If this amendment fails there would be an increase of only 26 new and competing research grants in fiscal year 2004. That is approximately one grant for each NIH Institute and Center. Also, nonbiodefense grants would actually drop, from 9,902 in fiscal year 2003 to 9,607 in fiscal year 2004. This means that more promising research on cancer, diabetes, or other devastating diseases may go unfunded.

The research conducted at NIH today can help lead to longer, more productive lives for people struck with countless conditions and diseases. Whether it is Alzheimer's, cancer, cardiovascular disease, autoimmune diseases, or diabetes, this research can help lead to a higher quality of life for Americans.

I am proud to have NIH in Maryland. NIH's impact in Maryland is quite profound. We have excellent research centers and private companies that exist and grow because of the unique synergy between the Federal labs in Maryland, like NIH, and the ingenuity of the private sector. Yet the benefits of investing in NIH are not limited to Maryland. NIH funds research at universities across the country. Patients across the country, their loved ones, and those who someday may be diagnosed with diseases all benefit from these critical investments.

We cannot afford to lessen our commitment to medical research. I thank Senator SPECTER, Senator HARKIN and

Senator FEINSTEIN for their leadership on this critical issue. I urge my colleagues to join me in supporting this important bipartisan amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, we have two more amendments to be offered by the Senator from Pennsylvania, Senator SANTORUM, and the Senator from Ohio, Senator DEWINE. We ask they come to the floor now. If there are objections to the amendment which has just been offered on the National Institutes of Health, we ask Senators to come to the floor so we can wrap up the debate, move on these votes, and move to final passage.

We are within the very short distance of the goal line, but we need those other Senators to come to the floor. Last Wednesday we were talking about going to third reading. That might be a subject to revisit.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. COLEMAN). Without objection, it is so ordered.

Mr. ENSIGN. I ask unanimous consent that Senator COLLINS be added as a cosponsor to amendment No. 1621.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENSIGN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, we have decided to accept the amendment of the Senator from Nevada, Mr. ENSIGN. Does the ranking member concur in that?

Mr. HARKIN. We have no objections on this side.

Mr. SPECTER. I urge the adoption of the amendment.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. ENSIGN. I ask unanimous consent that the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to amendment No. 1621.

The amendment (No. 1621) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. While we are waiting momentarily, I want to take this opportunity to recognize the staff of the Labor, Health and Human Services, and Education Subcommittee for all their efforts, hard work, and dedication on this very difficult bill.

First let me thank Senator HARKIN's staff: Ellen Murray, Erik Fatemi, and Adrienne Hallet. They have worked shoulder to shoulder in a bipartisan fashion with our staff to put together this fine bill. It is a testament to their hard work, skill, dedication, and partnership.

I also commend and thank our subcommittee staff: Jim Sourwine, Mark Laisch, Sudip Parikh, Candice Rogers, and Carol Geagley. The staff deserves our gratitude for working diligently for many months, late nights, and weekends to put together this very important bill. I know every year both of these staffs reach across the aisle to work together to forge compromises on many contentious issues. I think we should all thank them and salute them.

Lastly, I will take a moment to give special praise to our subcommittee staff director Bettilou Taylor. Senator SPECTER and I often refer to Bettilou as "Senator Taylor." She has one of the toughest jobs in the Senate. This is the largest bill this year. It probably is the largest domestic appropriations bill in the history of the United States to appropriate taxpayer money for Federal purposes. This is a very complex bill with difficult issues. Bettilou does it with a great deal of skill and grace. She is, in every sense of the word, a consummate professional. I thank her and I hope all Members will thank her for her outstanding work for the Senate and for the American people.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished President pro tempore and chairman of the full committee for those comments. I associate myself with them. It has been an outstanding and extraordinary staff. Ellen Murray for Senator HARKIN and Bettilou Taylor on the majority side are—exemplary is not a high enough characterization.

While I am at it, I thank my distinguished ranking member, Senator HARKIN, for his extraordinary contribution to the public good. He and I have worked as the chairman and ranking and reversed the roles, and we call it a seamless transfer of the gavel. I take this occasion to thank him for his work.

I note Senator NICKLES is in Chamber now, so I yield for a moment to my colleague, Senator HARKIN.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I thank the chairman for yielding and I, too, thank Senator STEVENS for his kind and generous remarks regarding the subcommittee and especially applaud him for all the glowing terms he used about our staff on both sides of the aisle. They are just

outstanding staff. They work very hard on this bill every year. But they have not worked any harder in any year than this year because, as Chairman STEVENS said, this is a very large bill and a very complicated bill. It covers just about everything from soup to nuts in our society.

They have done a great job. I, too, compliment our respective staffs and thank them for all their hard work. I want to repay in kind the kind words Senator SPECTER just said. We have had a back and forth chairmanship/ranking member now going back 13 years. It has been a seamless transfer of the gavel. We worked very closely together all these years to increase funding for NIH, to meet our commitments in education, to meet our commitments in health care.

This bill, I have often said, is the bill that really defines America. I have often said that we always have a Defense Appropriations Committee bill. The Defense Appropriations Committee bill is the bill that defends America. This bill that funds the Department of Education that our colleague from Tennessee headed—I remember when he was Secretary of Education—and the Department of Health and Human Services, the Department of Labor, NIH, libraries—everything, I always said this is the bill that defines America. It defines who we are as a people and how much we are going to invest in our human resources in this country.

So I thank Senator SPECTER for his dynamic leadership of this subcommittee, for his vision, for his hard work in making sure we have a bill that is—not perfect. Obviously, I don't think anyone here has gotten everything they want out of this bill; that is true. But it is a true compromise, and that is what should define what we do here in the Senate, is compromise between the various interests we represent and the various States. I think that is truly what this bill does this year, and I thank Senator SPECTER for his great leadership getting this bill together.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I regret I am going to make a budget point of order because the amendment that is pending busts the budget, and it busts the budget by \$1.5 billion.

First, I congratulate Senator SPECTER for the work he has done up to this point. He saved the taxpayers a lot of money. There have been a lot of amendments. I will just mention those. We have totaled those, the total for 2004. Senator SPECTER has made points of order, all of which were sustained, that saved \$24.481 billion in 2004—over a 10-year period, \$352 billion—by basically staying with the budget.

This amendment breaks the budget. This amendment breaks the budget deal that the chairman of the Appropriations Committee negotiated with the President of the United States. It



breaks the budget that we passed overwhelmingly—that we passed after a lot of hard work.

Are we going to have a budget or not have a budget? This amendment says we are going to add \$1.5 billion for NIH and declare it an emergency; i.e., we don't expect it to count on the budget. In other words, we don't want the budget to apply.

If we follow that analogy, it is like some of the other amendments that were offered. Several people offered amendments that just said let's take money from 2004 and put it in 2003 and therefore we will have money for 2004. It was a sham. We defeated all those. If we do not defeat this amendment, the budget is a sham. We will just say something is an emergency that is not an emergency.

We appropriate money to NIH. We have done so. I happen to be a supporter of NIH. I have supported increasing money substantially to NIH over the years.

Looking back, in 1990 we spent actually \$7.5 billion on NIH. In 2004, under the budget that we have, without this amendment we are spending right at \$28 billion. That is three and a half times what we spent in 1990.

In 1998, when we said we were going to double it, we did. In 1998, we were spending \$13.6 billion for NIH, and the budget we have before us is almost \$28 billion—more than double since 1998. Those are enormous growth rates, maybe exceeding almost any other Government program.

Maybe we need to slow that rate of growth down just a little bit because now we don't have big surpluses. When we were doubling the program, we had some surpluses. Now we have a big deficit. Maybe we should do a little bit better job of oversight.

I noticed there was a report. I remember, on "CBS News" the headline was "NIH Microbiologist Gets Paid \$100,000 By Taxpayers To Do Nothing."

It was reported in the Washington Post. I ask unanimous consent to have that printed in the RECORD, an article that was in the Post on July 4.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 4, 2003]

NIH SCIENTIST SAYS HE'S PAID TO DO NOTHING; AGENCY DENIES ADMINISTRATOR'S "SURREAL SITUATION" OF COLLECTING \$100,000 SALARY FOR NO WORK

(By Tania Branigan)

Every weekday at 6:30 a.m., Edward McSweeney climbs into his Volkswagen Passat for the hour-long commute to the National Institutes of Health. He has an office in Bethesda, a job title—health scientist administrator—and an annual salary of about \$100,000.

What McSweeney says he does not have—and has not had for the last seven years—is any real work. He was hired by the National Institute of Allergy and Infectious Diseases in 1988, but says his bosses transferred the research grants he administered to other workers eight years later, leaving him with occasional tasks more suitable for a typist or "gofer."

NIH officials denied the allegations earlier this week, but said they would reexamine the issue after Sen. Charles E. Grassley (R-Iowa) raised the issue in a letter to Health and Human Services Secretary Tommy G. Thompson.

Grassley, who as chairman of the Senate Finance Committee has supported budget increases for the NIH, learned of McSweeney's case when CBS News contacted him for a story on the scientist. In the report that aired on "CBS Evening News" on June 26, McSweeney said he had been paid to do nothing for the past seven years.

McSweeney used to be NIH's program officer for Lyme disease but was removed from the post in June 1995 after a dispute over his repeated criticism of a politically influential support group for sufferers and his allegations that NIH had been too accommodating of the group. He had publicly described the Lyme Disease Foundation as "wacko" because he disagreed with its theories about the disease. The dispute led to his suspension without pay for two weeks for insubordination and conduct unbecoming of a federal employee.

In spring 1996, his responsibilities for an unrelated program were also removed. He maintains they have never been replaced.

In an interview Monday, Grassley accused NIH of "an absolute management vacuum" and said it is "ludicrous" that the administrator is being paid to do nothing.

"We want to make sure we get the most bang for our buck, the most research for our dollars," the senator added.

John Burklow, a spokesman for NIH, said McSweeney has always been assigned duties appropriate to his position and pay level.

"The claim that he is being compensated for doing nothing is completely inaccurate," Burklow said.

According to NIH, McSweeney is director of the U.S.-Indo Vaccine Action Program, and has traveled to countries such as Russia representing the agency. He has also "produced reports and other work products."

But McSweeney said he has never been told he was director of the program and knew of no such title. Three other people ran the project, and his work for it—such as arranging coffee for lunches and forwarding messages—was "the kind of work you would get an . . . to do."

He added that the Office of Global Health Affairs had organized and paid for his trip to Russia, and that his only reports had been brief accounts of meetings.

McSweeney said he struggles to fill his eight-hour workdays by reading, exercising and writing fiction. He has self-published a bioterrorism thriller and a science fiction novel, and is working on a third book.

But he says his six-page job description is the ultimate work of creating writing and describes his position as "a bizarre, surreal situation—part Orwell, part Kafka and part Dilbert."

"It's not my idea, said McSweeney, 47. 'I have pointed it out repeatedly over the years. I suppose they are just waiting for me to get bored and frustrated and quit. But I haven't been inclined to do that, because my wife has a real job and we have compelling family reasons for staying in the area.'

"I just expect to do this for maybe four more years until my wife retires," he said. "It would be nice to get a real job doing real work."

Mr. NICKLES. Basically, the headline is "NIH Scientist Says He's Paid To Do Nothing; Agency Denies Administrator's 'Surreal Situation' Of Collecting \$100,000 Salary For No Work." The story goes on. I remember reading it, and I thought, whoa, somebody is not paying attention.

Please don't get me wrong. I know NIH does a lot of great work and I am supportive of that. But right now we have to live within a budget. If the committee wanted to—the committee has \$127 billion in discretionary spending—they could have given NIH more money. They had control over that \$127 billion. They could have shifted it around to where NIH would get more.

What the committee elected to do was: We will short fund NIH and we will give a lot more money for a lot of other things, and then we will try to run the gamut because we know NIH has a lot of support.

I think the committee needs to go back and say: Wait a minute, the budget is \$127 billion. It happens to be the largest budget of any that we have before any committee, with the exception of Defense. If you added all the mandates to it, it is bigger than Defense. It is a total of \$460-some billion.

I urge my colleagues, if they want to get more money for NIH, let's have the committee go back and reallocate out of the \$127 billion they have under the budget. But let's live with the budget. Let's not declare something that is funded every year by appropriations an emergency; i.e., when we declare an emergency, it doesn't count on the budget. If we are going to use the emergency game as a way of violating the budget, let's just not have a budget.

We passed the budget through both Houses. We said you had to have 60 votes in the Senate to declare an emergency. Our colleagues who are supporting this amendment I have great belief sincerely support NIH, but they underfunded it in their committee in relationship to other things and now they want to say let's just declare an emergency and get around it so we will have more money.

I don't think they should get away with that. That is violating the agreement, the budget we passed. It violates the agreement we made with the President of the United States. So I urge my colleagues to support me in my effort to sustain the budget.

Mr. President, I will be making a budget point of order.

Mr. CONRAD. Will the Senator yield?

Mr. NICKLES. I will be happy to yield to my colleague, but I am not quite finished.

Pursuant to section 502(c)(5) of House Concurrent Resolution 95, the fiscal year 2004 budget resolution, I raise a point of order against the emergency designation provision contained in the amendment.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Part of what the Senator said I agree with. We should have been able to assign more money under our allocation process to this subcommittee. We are not able to do so. However, the Senator from Oklahoma was incorrect when he said we did not give them more money. Through the agreement with the administration, we did bring back money from the allocation process for education. We increased that amount, by virtue of what

we did, by \$2.2 billion. We took \$3 billion out of Defense and allocated it to several subcommittees, including \$800 million to this subcommittee. But very clearly, this subcommittee is short of money.

There are a great many problems that we face. This bill is going to conference, and we don't know how we are going to work out some of the items in this bill. There are several allocations we have made under our process that the House has not made. I take the position that this emergency is necessary to get this item to conference to see how we can allocate it. Obviously, we are not going to bring a bill out of conference that the President will veto. If the President tells us he is going to veto it because of these emergency designations, assuming the House would agree to it—we don't know if the House will agree to it—but I do know this bill is very short of money.

The demands on our society are now so great that all of the things from SARS, to the things the CDC is doing, and all the things NIH is doing—this is a bill that just absolutely demands funding.

I take the position that it is not inconsistent with the comments I made to the President—that I would not support emergencies unless there was a true emergency. I think this is a true emergency.

But in any event, if the Senate will vote as the managers of this bill have requested, we will take the bill to conference at \$1.5 billion more than the maximum amount I could possibly allocate and meet the other demands of our other 12 subcommittees.

I say to the Senator from Oklahoma that I don't think I am breaking my word at all. I hope the Senate will support us in taking this bill to conference with the most money we can possibly find to put in it and go to conference with the House.

There are a series of items in here to which we know the House will object. I believe by the time we come out, this emergency will not be needed. If it is needed, I will personally visit with the President of the United States about it, and we will see what he decides. If the President still takes the position that we should not include the money on an emergency basis, I will at that time oppose it.

But right now, I urge the Senate to waive this point of order. If it is the first one waived this year, this is the one to waive. This is the one necessary to do so.

I don't think it is inconsistent with my position.

I will tell Senator NICKLES, the chairman of the Budget Committee, that I think with the constraints we are operating under this year in view of the problems we have, being at war, and at the same time conducting all of these enormous projects that we are facing in terms of the health and welfare of our country, including education—this, as I said before, is the largest bill we

have—this bill is underfunded. But it is not underfunded because of what we did; it is underfunded because of what the Budget Committee did.

This is the one chance to overrule the Budget Committee. I intend to support Senator SPECTER, and I intend to support this emergency declaration.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I remind my friend and colleague from Alaska—he is my friend—we had an agreement on \$784 billion. The Senator from Alaska has an initial \$5 billion on top of that. The agreement was \$784 billion. The Senator from Alaska got \$3 billion from defense for other items; then an additional \$2.2 billion on top of that. A deal is a deal. If people do not want to waive the Budget Act, we don't have to have a budget.

I tell my colleagues that if the VA-HUD bill wants to bust the budget by declaring an emergency, we can bust the budget all day long. Why have a budget? They want to bust the budget by another \$1.5 billion. I am sure every other committee would love to. Why have a budget if you are just going to say: Wait a minute; for an appropriated item we don't have enough money. We want more, and we will declare an emergency. It doesn't count. Now this year you will go to conference with the House with different figures.

We are going to have the same figures so we can finish the bills on time.

I am just disappointed in the statement of my colleague from Alaska. I believe a deal is a deal and a budget is a budget. It takes 60 votes to waive the budget. If our colleagues elect to waive it, I guess that will be their choice.

This Senator hopes that we will not do it. The NIH gets an additional \$1 billion this year. Maybe that is not enough, as some would like, but the committee had \$127 billion to allocate. They could have allocated that in any way they wanted. They had great discretion. We give great discretion to the chairman of the subcommittee and the ranking member of the subcommittee to allocate the \$127 billion. Yet it looks as if, well, the NIH didn't do as well as many other accounts. Maybe that was on purpose. I don't know. I do know the total exceeds the budget that we passed. It exceeds the agreement we made with the President of the United States. It would say that \$1.5 billion is an emergency for NIH. This is normally an appropriated item. There is nothing emergency whatsoever.

I urge my colleagues to sustain the budget point of order and not to waive the budget.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I appreciate the comments of the Senator from Oklahoma. Up my way, we say, "Wait until the last dog is hung."

The agreement we made with the President will be kept. In the final analysis, it was not based on the allocations we made under our allocation process. It was based on the total.

We have 13 bills to consider. We will see to it that we keep our agreement with the President. As a matter of fact, he has the veto pen. He will see to it that we keep it.

But there is a problem of getting bills done and taking to the conference the things that the Senate wants considered in conference.

I join with the Senator from Pennsylvania and the Senator from Iowa in wanting this money considered in conference. If it is not approved in conference, then we will not have approval.

I think there will be other items that the Senate will want to take out, and part of this money will come back in the final bill.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I yield to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise to support the position of the chairman of the Budget Committee.

The deficit for next year is now calculated to be over \$530 billion. That does not count the \$160 billion that is going to be taken—every penny—from the Social Security trust fund surplus. Now we are talking about an operating deficit of \$697 billion. And we are acting as though nothing has changed. Something has changed. This country is digging a deep hole.

I agree that NIH is underfunded. I would love to support additional money for NIH. But it is not there. It is not in this budget. It wasn't in the budget which I offered my colleagues and which the vast majority of Members on our side voted for. If we are going to be declaring emergencies on appropriated accounts where there is nothing that wasn't intended, there was nothing unanticipated, then we could just take the whole budget process and throw it out the window and abandon all discipline.

This is a mistake, I say to my colleagues. It is a mistake tonight to declare an emergency where no emergency exists.

I urge my colleagues to support the chairman of the Budget Committee.

The PRESIDING OFFICER. A point of order has been made.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this is the most spirited debate of the entire bill, and we have had some spirited debates.

I thank the Senator from Oklahoma for his compliments.

I haven't gotten around to totaling the savings. But I was pleased to hear that we saved some \$24-plus billion. Over a 10-year period, it is in the high of \$300 billion.

I am pleased to note that I believe there is a very big difference between the National Institutes of Health and anybody else who wants to declare an emergency. Simply stated, NIH deals with life and death.



At any rate, we have saved more than \$24 billion this year—a vast sum over 10 years.

I ask my colleagues to support this amendment, and I move to waive the Budget Act.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I rise in support of the Senator from Oklahoma. And this is a spirited debate.

I guess I rise in large part because of the agreement, as I understand it, that has gotten us to the point we are today; that is, to be able to progress on the appropriations bills with an overall sum that was set with a budget that was specifically designed and agreed to, which this amendment, as I interpret it, blows away.

Although I, as a physician and as someone who values what the NIH does tremendously—indeed, it is my life, or has been my life—the idea that we add \$1 billion as an emergency at this point in time is inconsistent with the agreements we made up to this date.

Again, I would like to see that money invested and the NIH properly use that money well. If \$1 billion is not put in, the NIH will be able to continue to do its responsible role, and fulfill that role, in a way that, to me, means this is not emergency money.

Thus, I will support the chairman of the Budget Committee, the Senator from Oklahoma, in the vote which we are about to take.

Mr. STEVENS. Will the Senator yield?

The PRESIDING OFFICER. Is there a sufficient second to the request for the yeas and nays?

There is a sufficient second.

The Senator from Alaska.

Mr. STEVENS. Leader, I state categorically I did not make an agreement on any particular bill. We made an agreement that the bottom line would not exceed the amount that the Senator from Oklahoma stated. We have a series of bills going to conference and we will keep that commitment.

But with due respect, I made no commitment on any particular bill, to the President or to anyone else.

Mr. FRIST. Mr. President, to reach this total sum, we established a budget that we have been able to adhere to today, to which we have all agreed. My interpretation of this amendment, describing it as an emergency, blows away that budget which leads to the total.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, emergency, like beauty, sometimes is in the eye of the beholder. Quite frankly, to this Senator, every single penny we put into NIH is an emergency. If you do not believe me, go out and talk to a family with a child that just came down with juvenile diabetes and see if you do not think what we spend at NIH is an emergency.

Talk to a woman who has just discovered she has breast cancer and is facing

an uncertain future. Tell her that funding of NIH is not an emergency. Talk to someone who has suffered an injury who is now quadriplegic. They are looking for help to once again be whole again through some of the great research being done through NIH. Tell them this is not an emergency. Go out and talk to a family who has a loved one who has just come down with Alzheimer's disease not knowing what the future is going to be. A mother, father, grandparents, looking forward to the debilitating effects of Alzheimer's disease. Tell them that funding for NIH is not an emergency.

Whether or not this is an emergency is in the eye of the beholder. Think of the millions of Americans who have been afflicted with illness, disease, and injury who look to NIH for the treatments and cures; think about whether or not every single penny we spend on NIH is an emergency.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I wanted an opportunity as a cosponsor of the amendment to say a few words and to add my support to that of the chairman of the Appropriations Committee and the chairman and ranking member of the subcommittee.

We stand at a very unusual time. Because of the human genome and the advances in molecular biology, it is now possible to develop and target drugs to specific ailments and therefore to break frontiers, to cross barriers and make uncharted progress. What we began exactly 5 years ago under the leadership of the Senator from Pennsylvania and the Senator from Iowa was essentially to double the funding of NIH over 5 years, to be able to take advantage of the new horizon in front of us.

I serve with President and Mrs. Bush, senior, as vice chairman of the National Dialogue on Cancer. Senator SAM BROWNBAC has just come aboard. And in the Senate Cancer Coalition which Senator BROWNBAC and I co-chair, we have heard miraculous testimony, for example, from Dr. Brian Drucker, the inventor of the drug Gleevec which is used to treat patients with chronic myeloid leukemia. Gleevec is one of a new generation of targeted cancer drugs that just kill bad cancer cells, leaving good cells unaffected. There is much less toxicity with this drug. Individuals do not lose their hair, they are not nauseated, and it has been shown to produce a 90-percent remission rate. That is where we are at this point in time. The sponsors of this amendment want to continue that advance.

I say to my colleagues on this side, we all voted for a host of amendments. They all cost money. This is the big one. This is the one that will really make a difference for the health of Americans. If this amount is not added to the budget, the number of new and competing non-biodefense research

grants will drop, from 9,902 in fiscal year 2003 to 9,827 in fiscal year 2004.

NIH says the optimum number percent of approval for these research grants is about 40 percent. Through the increases we have made over the last 5 years, the grant approval rate is now about 30 percent. All this amendment does is allow us to keep even with that rate. Unfortunately, it takes \$1.5 billion to do that.

The suffering out there is enormous. Because of advances, we can find new cures and new drugs with better prevention and better rehabilitation. That is what I believe the American people want to spend these dollars on.

I have faith in what the chairman of the Appropriations Committee said. Actually, I have never in the 10 years I have been here on a dollar matter heard him make a misstatement. I have no reason not to believe what he is saying. It may be true in absolute terms that this is not an emergency and the original plans were to take this money in a different way. For some reason that changed. The need is there. And the results will be there. I am absolutely convinced of it.

Senator BROWNBAC and I, as co-chairs of the Senate Cancer Coalition, hold hearings. We hear from people. We hear from scientists. We hear from advocates. Yet more than 575 health, research, and disease advocacy organizations support this amendment. That is no coincidence. It is because people know now that because of the advances in molecular biology, because of the human genome, we are on the brink of new discoveries. We want those discoveries to continue.

This is not pie in the sky. This is real. Every dollar spent will yield health dividends for people. I hope we will pass this amendment.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Oregon (Mr. SMITH) is absent because of a death in the family.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 52, nays 43, as follows:

[Rollcall Vote No. 346 Leg.]

## YEAS—52

Akaka	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Harkin	Nelson (FL)
Boxer	Hatch	Nelson (NE)
Brownback	Hollings	Reed
Campbell	Hutchison	Reid
Cantwell	Inouye	Roberts
Clinton	Jeffords	Rockefeller
Coleman	Johnson	Sarbanes
Collins	Kennedy	Schumer
Corzine	Kohl	Shelby
Daschle	Landrieu	Snowe
Dayton	Lautenberg	Specter
DeWine	Leahy	Stabenow
Dole	Levin	Stevens
Domenici	Lincoln	Wyden
Dorgan	Mikulski	
Durbin	Miller	

## NAYS—43

Alexander	Breaux	Cochran
Allard	Bunning	Conrad
Allen	Burns	Cornyn
Baucus	Byrd	Craig
Bayh	Carper	Crapo
Bingaman	Chafee	Dodd
Bond	Chambliss	Ensign

Enzi	Kyl	Sessions
Fitzgerald	Lott	Sununu
Frist	Lugar	Talent
Graham (SC)	McCain	Thomas
Grassley	McConnell	Voinovich
Gregg	Nickles	Warner
Hagel	Pryor	
Inhofe	Santorum	

## NOT VOTING—5

Edwards	Kerry	Smith
Graham (FL)	Lieberman	

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The emergency designation is stricken. The question is on agreeing to the amendment.

The Senator from Oklahoma.

Mr. NICKLES. Amendment No. 1522 by the Senator from Pennsylvania increases spending by \$1.5 billion. This additional spending would cause the underlying bill to exceed the subcommittee's section 302(b) allocation.

Therefore, I raise a point of order against the amendment pursuant to section 302 of the Budget Act.

The PRESIDING OFFICER. The Senator has raised a point of order.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I now send a series—

The PRESIDING OFFICER. If the Senator will suspend, a point of order was raised against the amendment. The point of order is sustained. The amendment falls.

## NOTICE

*Incomplete record of Senate proceedings. Except for concluding business which follows, today's Senate proceedings will be continued in the next issue of the Record.*

ORDERS FOR THURSDAY,  
SEPTEMBER 11, 2003

Mr. McCONNELL. Mr. President, I ask unanimous consent that at 1 p.m. on Thursday, September 11, the Senate proceed to the consideration of Calendar No. 269, S.J. Res. 17; I further ask that on Thursday there be 3 hours of debate equally divided between the two leaders or their designees with all other statutory limitations remaining in order.

I further ask unanimous consent that following the use or yielding back of the debate time during Thursday's session, the joint resolution be temporarily set aside and the Senate resume consideration of the resolution at 4:30 on Monday, September 15; provided further that there be 60 minutes remaining for debate equally divided; and that following that time the resolution be read a third time and a vote occur on final passage of the resolution with no further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I ask unanimous consent that following the FCC resolution on Thursday, the Senate proceed to the consideration of Calendar No. 218, H.R. 2754, the Energy and Water appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it adjourn until 8:30 a.m. Thursday, September 11; I further ask that following the prayer and pledge the morning hour be deemed expired, the Journal of proceedings be approved to date, the

time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 11:45; that the Senate observe 4 moments of silence in observance of the anniversary of the September 11, 2001 tragedy at the following times: 8:46 a.m.; 9:03 a.m.; 9:38 a.m.; and 10:06 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. For the information of all Senators, tomorrow the Senate will reconvene at 8:30 to observe the anniversary of the September 11 tragedy. As earlier ordered, there will be four moments of silence which will be denoted by the ringing of ceremonial bells outside the Senate Chamber. There will be other events throughout the day as a remembrance of this day and all Senators are invited to anticipate.

As announced by the majority leader, no rollcall votes will occur on Thursday or Friday. However, the Senate will conduct business on those days. Tomorrow, the Senate will consider the FCC resolution as well as the energy and water appropriations legislation. Any votes ordered will be sequenced to begin on Monday beginning at 5:30.

## ADJOURNMENT UNTIL TOMORROW

The PRESIDING OFFICER. If there is no further business, the Senate stands adjourned until tomorrow morning, Thursday, September 11, at 8:30 a.m.

Thereupon, the Senate, at 8:54 p.m. adjourned until Thursday, September 11, 2003, at 8:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate September 10, 2003:

## FEDERAL RESERVE SYSTEM

BEN S. BERNANKE, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 2004. (REAPPOINTMENT)

ROGER WALTON FERGUSON, JR., OF MASSACHUSETTS, TO BE VICE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOUR YEARS. (REAPPOINTMENT)

## IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT AS PERMANENT COMMISSIONED REGULAR OFFICERS IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

## To be lieutenant

CHRISTINA M. SCHULTZ, 0000  
JAMES W. TEDTAOTAO, 0000  
KURT M. VAN HAUTER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 271:

## To be captain

DANIEL B ABEL, 0000  
ELMO L ALEXANDER, 0000  
THOMAS F ATKIN, 0000  
VINCENT B ATKINS, 0000  
RICHARD D BELISLE, 0000  
LANCE O BENTON, 0000  
ANDREW J BERGHORN, 0000  
MATHEW D BLIVEN, 0000  
MARK E BUTT, 0000  
DAVID R CALLAHAN, 0000  
KARL H CALVO, 0000  
MARK M CAMPBELL, 0000  
STEVEN E CARLSON, 0000  
TIMOTHY M CLOUSE, 0000  
MICHAEL C COSENZA, 0000  
THOMAS M CULLEN, 0000  
MATTHEW E CUTTS, 0000  
MARK J DANDREA, 0000  
ROBERT L DESH, 0000  
WILLIAM T DEVEREAUX, 0000  
CHARLEY L DIAZ, 0000  
WILLIAM J DIEHL, 0000  
WILLIAM A DURHAM, 0000  
DAVID C ELY, 0000  
TODD GENTILE, 0000  
TERRY D GILBREATH, 0000  
DAVID H GORDNER, 0000  
EUGENE GRAY, 0000  
EDWARD W GREINER, 0000  
RICHARD T GROMLICH, 0000  
DAVID M GUNDERSEN, 0000  
GREGORY R HAACK, 0000  
MICHAEL A HAMEL, 0000  
MARK R HIGGINS, 0000